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EXAMINER
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NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
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2454

NOTIFICATION DATE	DELIVERY MODE
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08/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 09/922,709	<b>Applicant(s)</b> SIELAFF ET AL.	
	<b>Examiner</b> DUSTIN NGUYEN	<b>Art Unit</b> 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 6-23 and 25-27 are presented for examination.

#### ***Claim Objections***

2. Claims 8, 10 and 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claimed language of “the trigger is based upon time, hardware present and software present” in dependent claims 8, 10 and 11, is disclosed in independent claim 6.

3. Claims 26 and 27 are objected to because of the following informalities: “the rules-based” should be corrected as “the rules-based agent”. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-15, 18-20, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle [ US Patent No 6,771,290 ], in view of Ehring et al. [ US Patent Application No 2005/0097008 ].

6. As per claim 6, Hoyle discloses the invention as claimed including a rules evaluation system for displaying information on a user's computer [ i.e. system and method for providing an automatically upgradeable software applications includes targeted advertisement based upon demographics and user interaction with the computer ] [ Abstract ], comprising:

A client-server environment [ Figures 1-4 ];

a rules-based agent resident on said user computer in said client-server environment [ i.e. client software application ] [ 10, Figure 1; and col 9, lines 43-67 ] and having a plurality of rule clauses for evaluating data [ col 5, lines 38-42; col 7, lines 62-67; and col 10, lines 1-8 ];

at least one targeted advertising trigger having functionality to notify the rules-based agent to begin evaluating said data when the at least one target advertising trigger detects a change in one or more hardware presence, software presence, user behavior, and time, wherein said data evaluation relates to said change [ i.e. reactively-targeted advertising since the program can respond to user interaction with the computer to determined whether the input relates to a particular category of information and if so can select advertising related to that category of information [ col 7, lines 47-66; and col 18, lines 33-54 ], and advertising can be based on user activities, such as is determined by supplied user information, determination of applications used, recognition of files opened and observation of URL visited [ col 12, lines 19-23 ] ];

a plurality of data providers to provide said data for evaluation [ i.e. databases ] [ 44-50, Figure 3; and col 11, lines 42-col 12, lines 38 ]; and

at least one action for providing information upon the evaluated data [ i.e. display advertising or banner ] [ Abstract; and col 5, lines 7-42 ], and wherein at least one of said at least one action comprises displaying a message to a user and a prompt associated with said target advertising triggers, and wherein said prompt leads to a sale [ i.e. display advertisement and purchase ] [ col 1, lines 61-65; and col 35, lines 53-col 37, lines 27 ].

Hoyle does not specifically disclose

wherein the rules clauses comprises one or more required rules clauses and one or more optional rules clauses; and

wherein an action is performed provided all of the required rules clauses and at least one of the optional rules clauses are satisfied.

Ehring discloses

wherein the rules clauses comprises one or more required rules clauses and one or more optional rules clauses [ i.e. AND/OR boolean ] [ paragraph 0013 ]; and

wherein an action is performed provided all of the required rules clauses and at least one of the optional rules clauses are satisfied [ i.e. inclusive and exclusive relationship ] [ paragraph 0113 ]; and wherein said prompt leads to a sale [ i.e. make a sale ] [ paragraphs 0040 and 0144 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hoyle and Ehring because the teaching of Ehring would enable application/web site authors to formulate rules that not only determine dynamically which

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content is rendered to which users, but which further the author's goals by adapting the selection of content to each user's unique scenario [ Ehring, paragraphs 0001 0012 ].

7. As per claim 7, Hoyle discloses wherein the trigger is based upon user activity [ col 22, lines 14-23 ].

8. As per claim 8, Hoyle discloses wherein the trigger is based upon time [ i.e. duration of visitation ] [ col 12, lines 5-9 ].

9. As per claim 9, Hoyle discloses wherein the trigger is based upon computer online activity [ col 12, lines 5-9 ].

10. As per claim 10, Ehring discloses wherein the trigger is based upon hardware present in the computer [ i.e. hardware configuration data ] [ col 6, lines 26-34 ].

11. As per claim 11, Hoyle discloses wherein the trigger is based upon software present in the computer [ i.e. application employed ] [ col 10, lines 1-8; and col 12, lines 19-23 ].

12. As per claim 12, Ehring discloses wherein rule clauses can be added dynamically [ Abstract ].

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13. As per claim 13, Ehring discloses wherein triggers can be added dynamically [ col 2, lines 50-col 3, lines 28 ].
14. As per claim 14, Hoyle discloses wherein data providers can be added dynamically [ Figure 15; and col 30, lines 61-col 31, lines 23 ].
15. As per claim 15, Hoyle discloses wherein action can be added dynamically [ Abstract ].
16. As per claim 18, Hoyle discloses wherein the data provider detects an amount of memory installed on the user's computer [ col 33 lines 38-44 ].
17. As per claim 19, Hoyle discloses wherein the data provider detects downloaded software [ col 33, lines 29-54 ].
18. As per claim 20, Hoyle discloses wherein the action is a pop-up box displayed to the user [ col 19, lines 38-67 ].
19. As per claim 22, Hoyle discloses wherein the action is a link to a related website presented to the user [ col 5, lines 6-42 ].
20. As per claim 23, Ehring discloses wherein the action is a video displayed on the user's computer [ paragraphs 0014 and 0172 ].

21. As per claim 25, Hoyle discloses wherein the user receives the message without having to disclose personal data to an outside entity [ col 18, lines 55-col 19, lines 17 ].

22. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle [ US Patent No 6,771,290 ], in view of Ehring et al. [ US Patent Application No 2005/0097008 ], and further in view of Binder [ US Patent No 6,513,052 ].

23. As per claim 17, Hoyle and Ehring do not specifically disclose wherein the data provider detects a speed of the user's computer hard drive. Binder discloses wherein the data provider detects a speed of the user's computer hard drive [ Abstract; col 1, lines 59-64; col 3, lines 21-26; and col 4, lines 24-30 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hoyle, Ehring and Binder because Binder's teaching of current hardware configuration would enable to select and present advertisement that has a high correlation to the user's needs, behavior, and preferences, thereby increasing the probability of generating revenue from the advertising [ Binder, col 1, lines 49-54 ].

24. Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle [ US Patent No 6,771,290 ], in view of Ehring et al. [ US Patent Application No 2005/0097008 ], and further in view of Istvan [ US Patent Application No 2002/0042747 ].



25. As per claim 16, Hoyle and Ehring do not specifically disclose wherein the data provider detects a level of ink in the user's printer. Istvan discloses wherein the data provider detects a level of ink in the user's printer [ i.e. generate signal when low ink level ] [ Figures 12 and 13; Abstract; and paragraphs 0073, 0083, 0089 and 0092 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hoyle, Ehring and Istvan because the teaching of Istvan would provide maintenance support for the system before the system corrupted.

26. As per claim 21, Istvan discloses wherein the action is an e-mail sent to the user [ i.e. e-mail notification ] [ paragraphs 0008, 0009, 0076 and 0080 ].

27. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle [ US Patent No 6,771,290 ], in view of Ehring et al. [ US Patent Application No 2005/0097008 ], and further in view of Cook [ US Patent No 6,155,664 ].

28. As per claim 26, Hoyle and Ehring do not specifically disclose wherein said at least one targeted advertising trigger notifies the rules-based agent to begin evaluating said data when the at least one target advertising trigger detects that a print job has been completed, and wherein the rule-based evaluates whether a current link level of a printer is lower than a predetermined threshold, and displays information regarding a new ink cartridge. Cook discloses wherein said

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at least one targeted advertising trigger notifies the rules-based agent to begin evaluating said data when the at least one target advertising trigger detects that a print job has been completed, and wherein the rule-based evaluates whether a current link level of a printer is lower than a predetermined threshold, and displays information regarding a new ink cartridge [ Figure 5; Abstract; col 11, lines 5-32; and col 12, lines 43-col 13, lines 19 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hoyle, Ehring and Cook because the teaching of Cook would enable to control and manage printer to prevent failure.

29. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle [ US Patent No 6,771,290 ], in view of Ehring et al. [ US Patent Application No 2005/0097008 ], and further in view of Parupudi et al. [ US Patent No 6,859,829 ].

30. As per claim 27, Hoyle and Ehring do not specifically disclose wherein said at least one targeted advertising trigger notifies the rules-based agent to begin evaluating said data when the at least one target advertising trigger detects that the user uses the user computer on a battery for a predetermined period, and wherein the rule-based evaluates the battery and displays information regarding a longer lasting battery. Parupudi discloses wherein said at least one targeted advertising trigger notifies the rules-based agent to begin evaluating said data when the at least one target advertising trigger detects that the user uses the user computer on a battery for a predetermined period, and wherein the rule-based evaluates the battery and displays

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information regarding a longer lasting battery [ col 1, lines 21-49; col 4, lines 61-65; and col 7, lines 27-35 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hoyle, Ehring and Parupudi because the teaching of Parupudi would enable to provide event notifications to client such as applications [ Parupudi, col 1, lines 66-col 2, lines 1].

31. Applicant's arguments with respect to claims 6-23 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on Monday - Friday 8:30 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3970.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dustin Nguyen/  
Primary Examiner, Art Unit 2454